

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

CP No. D- 160 of 2023

[Dr. Kaleemullah Shaikh v. Province of Sindh & Others]

BEFORE:

MR. JUSTICE ADNAN-UL-KARIM MEMON
MR. JUSTICE RIAZAT ALI SAHAR

Mr. Sundardas, Advocate for petitioner
Barrister Azmaullah Channa, Advocate for Intervenor
Mr. Rafiq Ahmed Dahri, Asstt: A.G.

Date of hearing:
& Decision: 16.12.2025

ORDER

ADNAN-UL-KARIM MEMON, J - The Petitioner, through instant
Petition, has prayed as under:

- i. Declaration that the order dated 19.01.2023, having been passed by respondent No.2 without lawful authority, is of no legal effect.
- ii. Permanent injunction be issued restraining the respondents from interfering with the peaceful possession of the bungalow.
- iii. Any other relief which this Honourable court deems fit may be granted.
- iv. Cost of the petition be borne by the respondents

The case of the petitioner is that he is an employee of the Government of Sindh, serving as PHC, Management Trainer Hyderabad. The petitioner submitted an application for allotment of residential accommodation to Respondent No.2 on 30.08.2012. In response, Respondent No.2 allotted Bungalow No. C-10, GOR Colony, Hyderabad to the petitioner vide allotment order dated 26.09.2012. However, one Jawaid Ahmed Qadri was in illegal occupation of the bungalow and refused to vacate it. Consequently, the petitioner filed CP No. D-1992 of 2012. On 23.10.2013, the Court disposed of the petition with directions to the government officials / respondents to vacate the said bungalow through police assistance. In compliance with the Court's order, possession of the bungalow was handed over to the petitioner, who has been residing there since that time. The petitioner has been regularly paying the monthly rent and utility charges and has not committed any default. Despite this, without providing any notice or opportunity of hearing,

Respondent No.2 cancelled/withdrew the petitioner's allotment vide order dated 19.01.2023. The petitioner first became aware of this order when Respondent No.3, accompanied by a police mobile, arrived and attempted to evict him from the bungalow. Upon inquiry, the petitioner learnt that, due to political influence, Respondent No.2 intended to allot the bungalow to a relative or close associate. As a result, he has filed the instant petition.

3. Learned counsel for the petitioner argued that the order dated 19.01.2023 passed by Respondent No.2 is contrary to facts, law, and principles of equity. The said order is arbitrary, capricious, and an abuse of the administrative process, as it was passed without affording the petitioner any opportunity of hearing or providing any justification. The order violates the fundamental principles of natural justice, as it was issued without notice or hearing to the petitioner, and is therefore liable to be set aside. It was further argued that the petitioner, being an employee of the Government of Sindh, has complied with all terms and conditions of the allotment order and has not committed any breach. Consequently, the impugned order is illegal, improper, and contrary to settled law, and is liable to be quashed. Learned counsel prayed that the instant petition be allowed.

4. Upon notice, the respondents filed comments stating that petitioner, Dr.Kaleemullah Shaikh, is serving in Health Department, and according to the allotment policy, officials of Health Department are not entitled to allotment in GOR Colony. They further stated that, following the orders of Sindh High Court in various constitutional petitions, the irregular allotments made by the then Commissioner were reviewed, and eviction proceedings were initiated after issuing due notices. It is further submitted that the petitioner is not residing in the allotted bungalow, as he is serving in Karachi on detailment, and his brother has occupied the bungalow, which constitutes violation of the terms and conditions of allotment order. The respondents also contended that the petitioner has approached this Court with unclean hands and, therefore, the petition may be dismissed.

5. After hearing the counsel for the parties and examining the record, this Court has noticed that the entitlement to official accommodation is governed by statutory rules, policies and settled judicial principles. The Supreme Court of Pakistan has held that governments federal and provincial, within their available resources, may provide official residences to employees as part of terms and conditions of service, subject to availability, eligibility, and applicable rules and regulations. The allotment and cancellation of such accommodation must be made by an authority competent under the relevant statutory framework, and any grievance in relation to such decisions must be remedied through the remedy provided under those rules. It is further settled by the apex court that official accommodation is not a proprietary right but a facility provided under rules, and that the authority's decision regarding

allotment or cancellation should strictly adhere to the terms, conditions and procedures prescribed in the relevant Accommodation Allocation Rules. Courts have repeatedly emphasised that allotments must be made on merit and that arbitrary or out-of-turn allotments without justifiable reasons and compliance with rules are impermissible.

6. In the present case, it appears that petitioner simply sought issuance of writ of certiorari by calling in question the order dated 19.1.2023 whereby allotment order dated 28.9.2012 was withdrawn as being against the policy as the doctors (Health Department) are not entitled for the government accommodation in GOR Colony. We have noticed that the impugned order is based on the directives of this court vide order dated 12.10.2022 passed in CP No. D- 529 of 2022. This being the position of the case, since the matter is pending from 2023 and petitioner cannot claim the accommodation as matter of right which was cancelled in 2023 and this Petition is not maintainable in terms of Para No.5 of the judgment dated 15.10.2023 passed by the Supreme Court in Civil Petition No. 361 of 2018.

7. Under such circumstances, this Petition is liable to be dismissed along with pending applications in terms of Decision of the Supreme Court as the Supreme Court in such circumstances held that any order made or proceedings under taken in respect of an official accommodation, pursuant to the applicable rules, regulations, policies, instructions, directions etc shall not be called in question before any court except the forums provided thereunder. However, if such forum is not provided High Court can only intervene if it is satisfied to exercise its powers under Article 199 of the Constitution which is not the case in hand as such this Petition is dismissed along with pending applications.

The Commissioner Hyderabad Division is directed to comply the directives of the Supreme Court in letter and spirit and the illegal occupants of the premises / official accommodations must be vacated without further delay and if any bottleneck is created by any of the illegal / unauthorized occupants the provisions of Section 154 Cr.P.C. must be invoked without discrimination.

Let a copy of this order be communicated to Commissioner Hyderabad Division for immediate compliance.

JUDGE

JUDGE